

Assembly Bill No. 2732

CHAPTER 725

An act to amend Sections 1810.7 and 1857 of the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1998. Filed
with Secretary of State September 22, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2732, Miller. Insurance: bail licensees: records: data advisory committees.

(1) Existing law provides for the licensure of persons engaged in the business of executing, delivering, or furnishing bail bonds or undertakings of bail, and requires those licensees to satisfy, among other things, certain continuing education requirements.

This bill would exempt from these continuing education requirements a person who has been a licensee in good standing for 30 continuous years in the state and is 70 years of age or older.

(2) Existing law requires every insurer, rating organization, or advisory organization, and every group, association, or other organization of insurers which engage in joint underwriting or joint reinsurance to maintain certain specified records and information relevant to their operations and the operations of their members. Existing law requires that these records and information be made available to the Insurance Commissioner at all reasonable times for specified purposes.

This bill would delete rating organizations from the scope of those requirements and would establish data advisory committees to assist the commissioner in making special calls for one or more lines or types of commercial insurance, as defined, and to make available records required to be maintained by insurers or advisory organizations. The data advisory committees would be comprised of certain specified members and would be required to review all proposed industrywide requests for records and information by the commissioner, and, within 10 business days after receipt of each proposal, authorized to advise the commissioner as to certain specified factors relating to the cost effectiveness and feasibility of the proposal. This bill would authorize individual members to provide their own advice if the data advisory committee is unable to reach unanimous agreement in this regard.

This bill would also authorize an insurer to fulfill its recordkeeping and reporting requirements under these provisions by reporting required records to an advisory organization, as specified, but would prohibit the recipient advisory organization from providing an

individual insurer's information to another insurer, person, or organization, subject to certain exceptions.

(3) Existing law governing rates and rating and other organizations makes it a crime to willfully violate any of its provisions.

By adding a new prohibition within these provisions with regard to the provision of individual insurer's information by advisory organizations, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1810.7 of the Insurance Code is amended to read:

1810.7. (a) In order to be eligible to take the examination required to be licensed under this chapter, the applicant shall have completed not less than 12 hours of classroom education in subjects pertinent to the duties and responsibilities of a bail licensee, including, but not limited to, all laws and regulations related thereto, rights of the accused, and ethics. Additionally, a licensee shall complete annually not less than six hours of continuing classroom education in these subjects prior to renewal of his or her license. This continuing education requirement shall not include a written examination.

(b) The commissioner shall biennially approve or disapprove one or more statewide professional organizations or other providers familiar with bail law to provide education for licensure as required by this section. The commissioner may, at any time, disapprove any provider who is not qualified or whose course outlines are not approved, who is not of good business reputation, or who is lacking in integrity, honesty, or competency. The commissioner shall biennially approve or disapprove the course outlines and schedule of classes to be provided.

(c) The statewide professional organization or other providers responsible for providing education for licensure under this chapter shall consult with the California State Sheriffs' Association, the California District Attorneys Association, the California Advisory Board of Surety Agents, and the California Bail Agents Association, prior to submission of the course outlines for approval by the commissioner. The bail license fee shall be increased, the amount of which shall be determined by the commissioner, which shall be deposited in the Insurance Fund for the purposes of recovering the

administrative costs for meeting the conditions and purposes of this section. Providers of education or continuing education shall offer courses to all applicants at the same course fees.

(d) Any person who falsely represents to the commissioner that compliance with this section has been met shall be subject, after notice and hearing, to the penalties and fines set out in Section 1814.

(e) A licensee shall not be required to comply with the continuing education requirements of this section if the licensee submits proof satisfactory to the commissioner that he or she has been a licensee in good standing for 30 continuous years in this state and is 70 years of age or older.

(f) The commissioner may make reasonable rules and regulations necessary, advisable, and convenient for the administration and enforcement of this chapter.

SEC. 2. Section 1857 of the Insurance Code is amended to read:

1857. (a) Every insurer or advisory organization and every group, association, or other organization of insurers that engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys, or inspections made or used by it so that those records will be available at all reasonable times to enable the commissioner to determine whether that organization, insurer, group, or association, and, in the case of an insurer, every rate, rating plan, and rating system made or used by it, complies with the provisions of this chapter applicable to it. The maintenance of those records in the office of an organization of which an insurer is a member or subscriber shall be sufficient compliance with this section for any insurer maintaining membership or subscribership in that organization, to the extent that the insurer uses the rating plans, rating systems, or underwriting rules of that organization. The records shall be maintained in an office within this state or shall be made available for examination or inspection within this state by the commissioner at any time upon reasonable notice.

(b) There are established data advisory committees to assist the commissioner in making special calls for one or more lines or types of insurance to which this chapter applies that are commercial insurance as defined in Section 675.5 and to make available the types of reasonable records that subdivision (a) requires insurers, and advisory organizations to maintain and make available. No data advisory committee shall have any authority to veto, amend, or alter any request for the reporting of records or information by the commissioner, but shall only provide advice to the commissioner relative to methods and efficiency in the collection of records and information as set forth in subdivision (c).



(c) Each data advisory committee shall review all proposed industrywide requests for records and information by the commissioner at least one time but shall not review substantially the same request made on a recurring or ad hoc basis in the future. No later than 10 business days after receipt of each proposal, the data advisory committee may advise the commissioner as to both of the following:

(1) Whether the desired records and information are already available in other forms or are being maintained by one or more insurance advisory organizations that may be able to provide the records and information to the commissioner on a more efficient and cost-effective basis.

(2) Whether the format and contents of the proposal are likely to elicit useful information and make recommendations as to changes in the format or contents of the proposal.

If the data advisory committee cannot reach unanimous agreement on its advice to the commissioner, any member may provide his or her own advice. Any written advice to the commissioner by the advisory committee and by individual members shall be submitted simultaneously.

(d) Each data advisory committee shall consist of the following members:

(1) The commissioner or his or her representative.

(2) A representative of the department's statistical unit.

(3) No more than three representatives from advisory organizations operating under this article that maintain insurer records for the lines or types of insurance that are the subject of the call.

(4) Three representatives from various sizes of insurers chosen by the commissioner that underwrite diverse risks for the lines or types of insurance that are subject to the call.

(5) At least one but not more than two qualified consumer representatives chosen by the commissioner. As used in this section, "qualified consumer representative" means a person who has experience with the collection, use, and analysis of insurance data and who can show that he or she represents the interests of consumers as demonstrated by, but not limited to, a history of that type of representation in administrative, legislative, or judicial proceedings.

Any group, association, or insurer that represents persons described in paragraphs (1) to (5), inclusive, may submit to the commissioner the names of those persons for consideration of appointment to the advisory committee.

(e) Each data advisory committee shall meet telephonically. Members of an advisory committee shall receive no compensation.

(f) An insurer may fulfill any obligation to maintain, record, or report information under Article 6.5 (commencing with Section

1857.7) by reporting records required by subdivision (a) to an advisory organization that maintains the insurer's records with those records of other insurers and reports the aggregate records of insurers to the department according to reasonable schedules approved by the commissioner. The aggregate reports shall be made available by the commissioner for public inspection at the department, but shall not disclose the information of an individual insured, insurer, or insurer group.

(g) Upon a request made by any person to the commissioner in conjunction with an insurer's pending rate application, the advisory organization shall, within five business days, send to the commissioner the information in its possession regarding the individual insurer that Article 6.5 (commencing with Section 1857.7) specifically requires to be submitted with those filings. The information sent to the commissioner under this subdivision shall be available for public inspection at the department.

(h) Except as otherwise permitted or required by this section, no advisory organization shall provide an individual insurer's information to any other insurer, person, or organization, other than rates, rating systems, and rating plans that have been filed with the commissioner and are available for public inspection at the department.

(i) The commissioner may adopt rules necessary to implement this section.

(j) Nothing in subdivisions (b) to (i), inclusive, shall be construed to affect any of the following:

(1) Any authority granted to the commissioner under this code to obtain aggregate or individual insurer data or policy records from advisory organizations or insurers.

(2) Any industrywide data reporting requirements and standards that might exist in this chapter.

(3) The right of any person under any provision of this code, including Section 1861.07, to obtain and inspect at the department the aggregate or individual records of insurers maintained by advisory organizations.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

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